

AMENDED IN ASSEMBLY AUGUST 12, 2008

AMENDED IN ASSEMBLY JUNE 5, 2007

SENATE BILL

No. 29

Introduced by Senator Simitian

December 4, 2006

An act to add and repeal Section 46001 of the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

SB 29, as amended, Simitian. Pupil attendance: electronic monitoring.

Existing law requires that attendance in all schools and classes shall be recorded and kept according to regulations prescribed by the State Board of Education or as specified.

This bill would ~~prohibit~~ *require* a public school, school district, and county office of education ~~from issuing any that issues a device to a pupil that uses radio waves frequency identification to transmit personal information, as defined, or to enable personal information to be viewed remotely for the purposes~~ *purpose* of recording the attendance of a pupil at school, or establishing or tracking the location of a pupil on school grounds, or both *to notify and obtain written consent from the pupil's parent or guardian before the radio frequency identification device may be issued to the pupil. The bill would require a public school, school district, or county office of education that implements radio frequency identification to take certain steps to ensure that the privacy interests of the pupil under state and federal law are protected.* The bill would repeal these provisions as of January 1, 2011.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 46001 is added to the Education Code, to read:

46001. ~~(a) A public school, school district, or county office of education shall not issue to a pupil any device that uses radio waves either to transmit personal information remotely or to enable personal information to be read remotely for either or both of the following purposes:~~

~~(1) Recording the attendance of a pupil at school.~~

~~(2) Establishing or tracking the location of a pupil on school grounds.~~

~~(b) For purposes of this section the following definitions apply:~~

~~(1) "Personal information" means any of the following: the name, address, telephone number, e-mail address, date of birth, religion, ethnicity, photograph, fingerprint or other biometric identifier, school identification number, driver's license number, California Identification Card number, social security number, or any other unique identifier of the pupil.~~

~~(2) "Reader" means a scanning device that is capable of using radio waves to communicate with a device issued to a pupil and read the personal information broadcast or transmitted by that device.~~

~~(3) "Remotely" means that no physical contact between a device issued to a pupil and a reader is necessary in order to transmit personal information.~~

46001. (a) *If a local educational agency chooses to issue to a pupil a device that uses radio frequency identification (RFID) for the purpose of recording attendance or establishing or tracking the location of the pupil, the local educational agency shall notify and obtain written consent from the pupil's parent or guardian before the RFID device may be issued to the pupil.*

(b) *A local educational agency shall not condition privileges or opportunities for a pupil on whether the pupil's parent or guardian consents to the issuance of an RFID device, and shall not retaliate against a pupil or the pupil's parent or guardian for refusing to consent to the issuance of an RFID device.*

(c) *The consent form shall be a separate document that is used solely for the purpose of obtaining consent for the issuance of an RFID device, and shall not be used to obtain consent for any other*

1 *matter. The consent form may be attached to other documents,*
2 *including other consent forms.*

3 *(d) For purposes of this section, the following definitions apply:*

4 *(1) “Local educational agency” means a public school, school*
5 *district, or county office of education.*

6 *(2) “Notify” means providing a notice written in plain language*
7 *that is provided at the beginning of each school year pursuant to*
8 *subdivision (a) of Section 48980, that contains the following:*

9 *(A) A description of how RFID will be used by the local*
10 *educational agency, and how the RFID technology operates,*
11 *including the fact that the device uses radio waves to transmit data*
12 *or enable information to be read remotely.*

13 *(B) The kinds of information about, or associated with, a pupil*
14 *that the local educational agency may collect, maintain, or transmit*
15 *with the RFID device.*

16 *(C) The location of RFID readers under the control of the local*
17 *educational agency, on and off of school grounds.*

18 *(D) The location of RFID tags issued to pupils, such as those*
19 *incorporated into pupil identification cards.*

20 *(E) An explanation of the privacy and security risks commonly*
21 *associated with the use of RFID technology, and measures a pupil*
22 *may use to help control the risk that his or her information will*
23 *be read remotely without the pupil’s knowledge.*

24 *(F) A general description of the steps the local educational*
25 *agency has taken to ensure that its use of RFID for pupil*
26 *attendance or location tracking purposes is consistent with a*
27 *pupil’s privacy rights under state and federal laws.*

28 *(3) “Information about, or associated with, a pupil” includes,*
29 *but is not limited to, name, address, telephone number, e-mail*
30 *address, date of birth, religion, ethnicity, photograph, fingerprint*
31 *or other biometric identifier, school identification number, state*
32 *student identification number, driver’s license number, California*
33 *identification card number, social security number, or any other*
34 *unique identifier of the pupil.*

35 *(4) “Radio frequency identification” or “RFID” means the use*
36 *of electromagnetic radiating waves or reactive field coupling in*
37 *the radio frequency portion of the spectrum to communicate to or*
38 *from a tag or reader through a variety of modulation and encoding*
39 *schemes.*

1 (5) “Reader” means a scanning device that is capable of using
2 RFID to communicate remotely with a tag.

3 (6) “Remotely” means that no physical contact between a tag
4 and a reader is necessary in order to transmit information.

5 (7) “Tag” means either an RFID device having the ability to
6 produce a radio signal or an RFID device that recouples,
7 backscatters, or reflects, depending on the type of device, and
8 modulates a carrier signal received from a reader.

9 (e) In implementing this section the local educational agency
10 shall do all of the following:

11 (1) Take steps to ensure that the privacy rights of the parent,
12 guardian, and pupil under state and federal law are protected.

13 (2) When seeking consent of the parent or guardian pursuant
14 to this section, takes steps to ensure that the privacy interests of
15 the pupil are protected when those interests diverge from the
16 interests of the parent or guardian pursuant to principles set forth
17 generally in *In re S.* (1977) 19 Cal.3d 921 and *Am. Acad. of*
18 *Pediatrics v. Lungren* (1997) 16 Cal.4th 307.

19 ~~(e)~~

20 (f) This section shall remain in effect only until January 1, 2011,
21 and as of that date is repealed, unless a later enacted statute, that
22 is enacted before January 1, 2011, deletes or extends that date.